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Committee on Criminal Courts.

Reorganizing the Criminal Courts

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REORGANIZING THE CRIMINAL COURTS.

NOT long ago a poor Italian who spoke little English was arraigned before a city magistrate on the charge of having stolen a bottle of milk. The man pleaded guilty and on investigation it developed that he stole because he was actually starving and his children were starving.

The magistrate, however, could do nothing but commit the man to jail to be held for trial later on by the Court of Special Sessions, because the law does not give to the magistrates the right to dispose of such cases.

The man was sent to jail and while he was there two of his children, who had been left without support, died, and their father was not even able to attend the funeral.

There are hundreds of cases like this, not all perhaps so pathetic, occuring every day in the Magistrates' Courts of this great city.

Is this an efficient way of dealing with criminal offenses? In the first place, great and unnecessary suffering was visited upon this man without any good to the community and with great harm to him. In the second place, the taxpayers were compelled to bear an unnecessary burden in maintaining him in the city prison for some time, when he might have been discharged at once had the magistrate been given power to deal with such cases.

How many citizens of New York are aware of the fact that in all cases like this, that is, cases involving a misdemeanor, under the present system there has to be what amounts practically to a double trial in every case; first a trial before the magistrate when all the facts are gone into, witnesses examined, etc., and then if the magistrate does not discharge the prisoner, a second trial before the Court of Special Sessions, sometimes after a delay of several weeks?

Is this duplication of the work of arraignment, examination and trial in repressing and punishing crime in New York necessary? Is there not a glaring economic and social waste in the en-

forcement of the criminal law? Are not the citizens being unduly taxed because of these lost motions?

Even cases of the most trivial kind, if they involve a misdemeanor, cannot be disposed of by magistrates. A man who has his dog stolen, for example, in attending the trial in the magistrate's court loses one day of his time and then if the prisoner is found guilty, loses considerable time after the examination in another court. Similarly, the time of at least one policeman is lost to the city for two, three or more days.

Delay is a danger to the law but is a delight to the criminal.

Take the case of a pickpocket out on bail: Under the present system, if the complainant is a citizen, the first effort is to find him and buy him off or bully him; give him back twice the amount of money if necessary to stay away or threaten him with bodily injury from the gang if he won't.

Often in the magistrates' courts a pickpocket charged with jostling will put up as much as $2,500 cash bail rather than to be tried before a magistrate who he fears will give him the limit of the law.

The same thing is true of many other offenders. These go down in a long, unending procession to the Special Sessions Court to crowd the congested Calendars and add needlessly to the expense of the taxpayers.

Three years ago great reforms were brought about in the magistrates' courts of the city so that they now stand in both dignity and importance on the same plane as the Supreme Court of the State.

The Committee on Criminal Courts of the Charity Organization Society, a group of disinterested citizens who are keenly interested in the welfare of the poor man's court, realizing that it is from these courts that large numbers of our citizens, especially our newly arrived citizens, receive their standards of American justice and law, believes that the time has come when the next step should be taken in making these courts that instrument of justice that they were intended to be.

The Committee, after years of close observations and sympathetic study, has developed, therefore, a plan for important changes which will do away with the defects that are now appar-

ent. This plan contemplates the establishment of one court of inferior criminal jurisdiction for the whole city, with as many parts or divisions as may be necessary to fulfill its purposes.

WHAT IS PROPOSED.

The essential points of this plan are as follows:

1. Give to the magistrates the power to dispose of cases involving misdemeanors. In other words, enable the magistrates to sit as Justices of Courts of Special Sessions, just as a Justice of the Peace does now in every County of the State outside of Greater New York and as the magistrates in New York City did about twenty years ago.

2. Preserve to the offender the right to be tried by a court of three judges if he so desires; in such event the prisoner to be held for a Trial Term of the Court.

3. Give to the District Attorney the right to interpose an objection to the trial by a single magistrate of any case where in the opinion of the District Attorney the case should be tried by a court of three judges.

Under these changes it is believed that at least 90 per cent. of the cases which now involve a double trial will be promptly disposed of by the magistrate thus eliminating double trials, reducing the congestion in the city prisons, and saving the time of citizens, policemen and other city employees, and reducing the expenses of government materially.

It will also put an end to the frequent miscarriage of justice which now takes place because of the opportunity for witnesses evaporating or being tampered with between the time of the original trial in the magistrates' court and the second trial some weeks later in the Court of Special Sessions.

It will also do away with the special bureau of the District Attorney's office known as the Special Sessions Information Bureau, which now costs the city from $25,000 to $30,000 a year and which serves no useful purpose and congests the Tombs and the Calendar.

Under the present plan by which the District Attorney is empowered to interpose an objection to a case being disposed of

by a magistrate, the interests of the community are fully protected at every point.

A NEW FUNCTIONAL COURT.

The functional courts established three years ago, namely, the Court of Domestic Relations and the Night Court for Women, the latter constituting a social evil court, have proved so great a success that it has seemed to be advantageous to consider a further development in this direction and provide an additional functional court, namely, a Departmental or Municipal division, in which can be heard those cases where the various city departments and branches of the city government are bringing actions for the enforcement of various statutes and ordinances.

At the present time such cases are brought in the ordinary district magistrates' courts scattered throughout the city. The result is that they congest the courts unduly and at the same time they do not have the attention given to them which the heads of departments would desire and which the magistrates would wish to give to such important laws. Moreover, the time of inspectors of the various city departments and other witnesses is now very materially wasted, as they have to sit in court all day until certain classes of cases are disposed of.

The result is that when these cases, involving as they do highly technical questions, are heard they are heard without the consideration which they ought to have.

A MUNICIPAL DIVISION PROPOSED.

It is proposed, therefore, to establish a Municipal Division of the Magistrates' Court in which all such cases can be heard, located as it would be, in a central location down town, with a branch in each of the boroughs as may be needed, with judges assigned to the court with special qualifications, the establishment of this court will prove a great benefit to the city.

Under such a plan regular Calendars could be prepared and definite days assigned each week to the hearing of cases involving different departments, as, for instance, on Mondays Health Department cases, on Tuesdays Building Department cases, on

Wednesdays Fire Department cases, on Thursdays Factory Department cases, etc., with great economies of times resulting to litigants, attorneys and taxpayers, and especially to municipal employees.

The judges assigned to these courts would in a short time become familiar with the very technical laws which they are called upon to interpret and the Corporation Counsel and District Attorney would be able to assign to such a court assistants who could specialize upon these statutes.

The opinion of every head of department affected by such a change has been sought as to the desirability of this change and the plan has received the unanimous endorsement of every head of the city departments as well as of the Corporation Counsel and others whose work has given them great familiarity with the defects of the present system.

A SEPARATE CHILDREN'S COURT.

For a long time there has been a very widespread feeling in the community that the Children's Court should be entirely distinct in its management from any other court. At the present time it is a part of the Court of Special Sessions and the justices presiding over it are assigned to this court by the Chief Justice of the Court of Special Sessions and the assignments are liable to be changed from year to year. Similarly the clerks, probation officers and other employees are likewise assigned and the control of the clerks, probation officers and other employees is vested, not in the justices assigned to the Children's Court, but in the whole group of Special Sessions judges, the majority of whom are not familiar with the needs of that court because they do not sit there.

The result has not proved satisfactory in every respect. This Court is a most important one. The belief has become widespread that a better administration would follow a complete separation of the Children's Court from all other parts so far as it is legally possible to bring this about.

For constitutional reasons the Children's Court must continue to be a Court of Special Sessions using the term in its legal significance but there is no reason why the justices of that court

should not be assigned to it permanently and should not have complete control of the affairs of the court.

Under the plan developed by this Committee that is contemplated. The Mayor is to select four judges out of the present justices (and it is hoped that he will select the present judges assigned to the Children's Court) and appoint them as Children's Court judges for a definite term. These judges will then elect a Chief Justice and the Board of Justices thus constituted will control all affairs of the court.

To carry out these ideas a bill has been prepared by this Committee and has been introduced in the Legislature by Senator Patten, Senate Int., No. 1021.

WHAT THE BILL DOES.

1. The bill enacts a new Inferior Courts Act and repeals outright the present law, taking over into the new act, however, all those parts of the present law which have proved to be valuable.

2. The Court of Special Sessions and the Magistrates' Courts of the two Divisions are all merged into one City Magistrates' Court with full powers of a court of special sessions.

3. All existing Magistrates and Justices of the Court of Special Sessions and all employees of such courts are continued in office for the balance of their unexpired term at the same salaries and in the same positions as at present. No change whatever is made with regard to any of them.

4. The Justices of the Court of Special Sessions now in office have conferred upon them the powers of City Magistrates and the City Magistrates now in office have conferred upon them the power of Justices of the Court of Special Sessions.

5. All of these Magistrates and Justices constitute one Board of City Magistrates, with a Chief Magistrate to be appointed by the Mayor from among their number.

6. Each one of these Magistrates will have power to dispose of all cases of misdemeanors and for that purpose to sit as a Justice of the Court of Special Sessions except where the prisoner requests to be tried by three judges or except where the District Attorney makes similar request.

7. The following Parts of the City Magistrates' Court will be held:

1. The District Courts as at present.

2. The Domestic Relations Courts as at present.

3. The Night Courts for Men and Women as at present.

4. The Municipal Division for trial of criminal cases where the City Departments are complainants and with power to inflict civil penalties and to sit as a Court of Special Sessions with criminal jurisdiction.

5. A Trial Division with separate court room and organization after the analogy of the Appellate Division of the Supreme Court. This Trial Division to be presided over by three judges, to be assigned for a term of one year by the Chief City Magistrate. To be as many parts of this court in different boroughs as may be necessary.

6. The Children's Court. A separate court with power of a Court of Special Sessions and with a separate organization, presided over by a board of four or more judges, with a Chief Judge, with practically one judge assigned to permanent work in each of the different boroughs.

8. Power is given to the Magistrates to establish additional functional courts as may be necessary. If it should seem wise to establish an Automobile or Speed Court it can be done by the magistrates. Similarly if it should be deemed wise to establish a court for Minors.

From all of this it is believed there should result great economies of time to litigants, attorneys and city employees and relief of congestion in the Tombs, the overcrowding of Calendars in Magistrates' and Municipal Courts, and a direct saving of salaries of these officers, and that there will result especially a speedier determination of causes and a doing away with the opportunities which now exist for the defeat of justice through tampering with witnesses and in other ways.

Speedy justice is the best justice. The cry of the day is against the law's delays.

THE COMMITTEE ON CRIMINAL COURTS

of

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105 East 22nd Street, New York City.

March 9, 1914.

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